

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TRACY TACKETT and KEVIN
POLEN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DOROTHY M. POLEN,

Respondent-Appellant,

and

JOHN POLEN,

Respondent.

UNPUBLISHED

July 26, 2007

No. 275302

Calhoun Circuit Court

Family Division

LC No. 05-002441-NA

Before: Murphy, P.J., and Zahra and Servitto, JJ.

PER CURIAM.

Respondent Dorothy Polen appeals from the trial court's order that terminated her parental rights to two minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). For the reasons set forth below, we affirm.

The children were taken into foster care pursuant to a July 8, 2005, complaint that alleged that a neglect petition had been filed in Kentucky because of parental neglect and physical and sexual abuse by respondent's boyfriend, B. J. Wood. The complaint further alleged that, after the children were placed in a relative's home in Kentucky, respondent and Wood took the children from the relative's home and brought them to Michigan, and that they were all living together in a car. There were reports that Wood masturbated in the car while respondent took the children to the rest-area bathroom, that the children had been sleeping in the car, and that respondent's adult daughter saw respondent and Wood hit each other and the children.

During the proceedings, respondent failed to take drug tests, she failed drug tests, and she failed to maintain a job and housing. A therapist also concluded that respondent lacked insight into her children's needs and, even with medication and long-term therapy, he did not believe respondent could overcome her own problems enough to properly care for the children.

Respondent argues that reversal is required because petitioner failed to serve notice of the termination hearing on the older child, who was 14 years old at the time of the hearing, contrary to MCL 712A.19b(2)(a).¹ We disagree. Respondent does not allege any defect in service on herself. Because notice involves a personal right, respondent lacks standing to argue that service on the older child was defective. *In re Terry*, 240 Mich App 14, 20; 610 NW2d 563 (2000).

Respondent claims that termination of her parental rights was not in the children's best interests. "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). We review the trial court's best interest decision for clear err. *In re Trejo*, *supra* at 356-357.

Respondent's reliance on *In re AMAC*, 269 Mich App 533; 711 NW2d 426 (2006), is misplaced. In that case, the trial court terminated the respondent's parental rights after an adjudicative trial, without conducting a separate dispositional hearing, thereby denying the respondent an opportunity to prove that termination was not in the child's best interests. Here, the trial court conducted a separate termination hearing and respondent had the opportunity to present evidence regarding the children's best interests. Further, contrary to what respondent asserts, the record discloses that the trial court specifically considered the children's best interests. In fact, the court went beyond the statutory requirement by affirmatively finding that termination of respondent's parental rights was in the children's best interests. *In re Trejo*, *supra* at 354.

Moreover, nothing in the record suggests that termination of respondent's parental rights was contrary to the children's best interests. The children were in foster care for over 16 months, during which time respondent was able to maintain stable housing for only two three-month periods. Respondent had not established an ability to budget money, hold a job, or maintain an apartment of her own, and she tested positive for drug use. Respondent showed little insight into her children's needs and had not demonstrated an ability to effectively parent them. The evidence did not clearly show that termination of respondent's parental rights was not in the children's best interests. Thus, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ William B. Murphy
/s/ Brian K. Zahra
/s/ Deborah A. Servitto

¹ This statute requires that an agency advise a child of a termination hearing if the child is 11 years of age or older. We note that MCL 712A.19b(2)(h) separately requires that written notice of a termination hearing be served on a child, if the child is 11 years of age or older.